

AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 27, 2005
AMENDED IN SENATE APRIL 6, 2005

SENATE BILL

No. 616

Introduced by Senator Speier

February 22, 2005

An act to amend Section 6254.14 of the Government Code, and to amend Section 6126 of, and to add Sections 5024.3 and 5024.4 to the Penal Code, relating to health care services.

LEGISLATIVE COUNSEL'S DIGEST

SB 616, as amended, Speier. Inmate health care.

Existing law requires hospitals that do not contract with the Department of Corrections for emergency health care services to provide those services at a Medicare rate. Existing law prohibits the department from reimbursing a hospital that provides those services at a rate that exceeds the hospital's reasonable and allowable costs.

This bill would require the department to make a reasonable effort to lower health care expenditures, as specified. The bill would require the department to attempt to renegotiate each health care contract, as it expires, to obtain services that are reimbursable at rates that are not more than 115% of the Medicare rate, and would prohibit the department from entering into or renewing certain other hospital contracts. The bill would require the department, to the extent possible, to provide health care services to inmates at the prison site, if it would be more cost-effective than transporting inmates to outside hospitals.

This bill would require the department, in an effort to better treat inmates with Hepatitis C, as well as cover some or all of the

department's cost of treatment when possible, to work with the San Francisco Veterans Administration Medical Center for the treatment of this inmate population, as specified.

Existing law specifies the duties of the Office of Inspector General.

This bill would include in those duties the requirement to establish a process, in consultation with the California Medical Board, to facilitate the receipt, review, and investigation of complaints from employees of the Department of Corrections who provide health care services.

Existing law protects from disclosure records of the Department of Corrections that relate to health care service contract negotiations.

This bill would require the department to disclose to the State Auditor certain information related to health care service contracts that are not competitively bid. The bill would authorize the State Auditor to disclose that information to the Joint Legislative Audit Committee, upon request.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) State expenditures for the delivery of health care services
- 4 to adult inmates in state prisons doubled from the 2000-01 fiscal
- 5 year to the 2002-03 fiscal year.
- 6 (b) Expenditures are continuing to increase at high annual
- 7 rates, with expenditures projected to surpass \$1 billion in the
- 8 2005-06 fiscal year.
- 9 (c) While the Department of Corrections acknowledges that it
- 10 must reduce its costs and improve the delivery of health care, its
- 11 plans for reorganizing the delivery of health care services, by its
- 12 own admission, will not be fully realized until 2010.
- 13 (d) It is critical that the department take further immediate
- 14 steps beyond its initial reorganization plans of 2005 to improve
- 15 the delivery of health care and to reduce costs by doing all of the
- 16 following:
- 17 (1) Eliminating excessively high cost hospital services
- 18 contracts.

1 (2) Reducing the contracting out of services that can be
2 delivered by department medical staff.

3 (3) Reducing inmate transportation and guarding costs through
4 improved contracting procedures.

5 (4) At all times utilize the least expensive generic prescription
6 drug products available.

7 (e) To achieve health care savings in the Department of
8 Corrections in the near and immediate future, the Legislature
9 hereby enacts the Inmate Health Care Efficiency Act of 2005.

10 SEC. 2. Section 6254.14 of the Government Code is amended
11 to read:

12 6254.14. (a) (1) Except as provided in Sections 6254 and
13 6254.7 and this section, nothing in this chapter shall be construed
14 to require disclosure of records of the Department of Corrections
15 that relate to health care services contract negotiations, and that
16 reveal the deliberative processes, discussions, communications,
17 or any other portion of the negotiations, including, but not
18 limited to, records related to those negotiations such as meeting
19 minutes, research, work product, theories, or strategy of the
20 department, or its staff, or members of the California Medical
21 Assistance Commission, or its staff, who act in consultation with,
22 or on behalf of, the department.

23 (2) Except for the portion of a contract that contains the rates
24 of payment, contracts for health care services entered into by the
25 Department of Corrections or the California Medical Assistance
26 Commission on or after July 1, 1993, shall be open to inspection
27 one year after they are fully executed. In the event that a contract
28 for health care services that is entered into prior to July 1, 1993,
29 is amended on or after July 1, 1993, the amendment, except for
30 any portion containing rates of payment, shall be open to
31 inspection one year after it is fully executed.

32 (3) Three years after a contract or amendment is open to
33 inspection under this subdivision, the portion of the contract or
34 amendment containing the rates of payment shall be open to
35 inspection.

36 (4) Notwithstanding any other provision of law, the entire
37 contract or amendment shall be open to inspection by the Joint
38 Legislative Audit Committee and the Bureau of State Audits. The
39 Joint Legislative Audit Committee and the Bureau of State
40 Audits shall maintain the confidentiality of the contracts and

1 amendments until the contract or amendment is fully open to
2 inspection by the public.

3 (5) The Department of Corrections shall disclose to the State
4 Auditor the rate of payment for any health care service contract
5 that is not competitively bid, within seven days of the signing of
6 the contract. The department shall identify the contractor and the
7 general terms of the contract in reporting to the Auditor. The
8 Auditor, upon request by a member of the Joint Legislative Audit
9 Committee, shall provide to the member the information received
10 from the department, including the specific rate of payment.

11 (6) It is the intent of the Legislature that confidentiality of
12 health care provider contracts, and of the contracting process as
13 provided in this subdivision, is intended to protect the
14 competitive nature of the negotiation process, and shall not affect
15 public access to other information relating to the delivery of
16 health care services.

17 (b) The inspection authority and confidentiality requirements
18 established in subdivisions (q), (v), and (w) of Section 6254 for
19 the Legislative Audit Committee shall also apply to the Bureau
20 of State Audits.

21 SEC. 3. Section 5024.3 is added to the Penal Code, to read:

22 5024.3. (a) The department shall at all times utilize the least
23 expensive generic prescription drug products available and shall
24 ~~require all its pharmacies to at least twice annually systematically~~
25 ~~review all prescription drug products utilized to assure that they~~
26 ~~are the least expensive generic prescription drug products~~
27 ~~available, and that are consistent with the medical needs of the~~
28 ~~inmate and shall compile a report at the end of each calendar~~
29 ~~year of the 20 most commonly prescribed drugs, each identified~~
30 ~~by total prescriptions filled and total cost, and it shall file these~~
31 ~~reports with the fiscal committees of the Legislature by March 1~~
32 ~~of each year, beginning in 2007.~~

33 (b) The department shall attempt to renegotiate each contract
34 for health care services, as it expires, to obtain services that are
35 reimbursable at rates that do not exceed 115 percent of the
36 Medicare rate. If the department enters into a health services
37 contract that exceeds 115 percent of Medicare, it shall report
38 such fact to the Legislature within three working days of the
39 effective date of the contract and it shall identify the contractor
40 and the percentage by which the costs exceed the Medicare rate.

1 (c) (1) For purposes of this subdivision, “remote travel”
2 means road travel of 150 round trip miles or more between a
3 prison and a hospital providing services to an inmate from that
4 prison.

5 (2) The department shall compile, within 30 days of the
6 effective date of this section, a list of existing hospital service
7 contracts that involve remote travel, including identifying those
8 prisons involved.

9 (3) The department may not enter into or renew any contract
10 involving remote travel unless it can demonstrate that sending
11 inmates to that hospital from that prison is more cost-effective
12 than using a hospital that does not require remote travel.
13 However, the department may contract with a medical facility
14 that requires remote travel, provided the contract is limited to
15 specific health care services that are unavailable at facilities that
16 do not require remote travel, *or to be consistent with the medical*
17 *needs of an inmate.*

18 (d) To the extent possible, *and consistent with the medical*
19 *needs of an inmate*, the department shall contract for health care
20 services that cannot be provided by existing department
21 employees with providers who will perform those services at the
22 prison site, if the demand for those services would make the
23 contract cost-effective by saving costs of custody transportation.

24 SEC. 4. Section 5024.4 is added to the Penal Code, to read:

25 5024.4. The department shall work with the San Francisco
26 Veterans Administration Medical Center with the following
27 objectives to be met within 180 days of the effective date of this
28 act:

29 (a) The department shall consult with the Medical Center for
30 the purposes of determining the parameters of Hepatitis C
31 treatment that must be met in order for state inmates with
32 Hepatitis C to receive treatment and for the department to receive
33 payment, either in whole or part, from the Veterans
34 Administration for Hepatitis C treatment provided to these
35 inmates.

36 (b) The department shall utilize its existing telemedicine
37 clinics to allow the appropriate medical personnel at the, San
38 Francisco Veterans Administration Medical Center to treat
39 qualifying inmates, as defined in subdivision (a), by electronic
40 video transmission.

1 (c) The department shall consult with the, San Francisco
2 Veterans Administration Medical Center or its designee for the
3 purposes of identifying methods to insure that parolees who meet
4 the conditions set in subdivision (a) maintain treatment during
5 parole.

6 SEC. 5. Section 6126 of the Penal Code is amended to read:

7 6126. (a) The Inspector General shall be responsible for
8 reviewing departmental policy and procedures for conducting
9 audits of investigatory practices and other audits, as well as
10 conducting investigations of the Department of Corrections, the
11 Department of the Youth Authority, the Board of Prison Terms,
12 the Youthful Offender Parole Board, the Board of Corrections,
13 the Narcotic Addict Evaluation Authority, the Prison Industry
14 Authority, and the Youth and Adult Correctional Agency, as
15 requested by either the Secretary of the Youth and Adult
16 Correctional Agency or a Member of the Legislature, pursuant to
17 the approval of the Inspector General under policies to be
18 developed by the Inspector General. The Inspector General may,
19 under policies developed by the Inspector General, initiate an
20 investigation or an audit on his or her own accord.

21 (b) Upon completion of an investigation or audit, the Inspector
22 General shall provide a response to the requester.

23 (c) The Inspector General shall, during the course of an
24 investigatory audit, identify areas of full and partial compliance,
25 or noncompliance, with departmental investigatory policies and
26 procedures, specify deficiencies in the completion and
27 documentation of investigatory processes, and recommend
28 corrective actions, including, but not limited to, additional
29 training with respect to investigative policies, additional policies,
30 or changes in policy, as well as any other findings or
31 recommendations that the Inspector General deems appropriate.

32 (d) The Inspector General shall, in consultation with the
33 Department of Finance, develop a methodology for producing a
34 workload budget to be used for annually adjusting the budget of
35 the office of the Inspector General, beginning with the budget for
36 the 2005-06 fiscal year.

37 (e) The Inspector General, using existing resources and in
38 consultation with the California Medical Board, shall establish a
39 process to facilitate the receipt, review, and possible
40 investigation of complaints from employees of the Department of

- 1 Corrections who provide health care services. The Inspector
- 2 General and the board may enter into a memorandum of
- 3 understanding regarding the implementation of the Inmate Health
- 4 Care Efficiency Act of 2005.

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